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NOTE ON INTERNATIONAL PROTECTION

I. INTRODUCTION

1. There is a natural complementarity between the protection work of UNHCR and the international system for the protection of human rights. The protection of refugees operates within a structure of individual rights and duties and state responsibilities. Human rights law is a prime source of existing refugee protection principles and structures; at the same time, it works to complement them.

2. The Executive Committee drew attention in its General Conclusion on International Protection (A/AC.96/895, paragraph 18) and in its Conclusion on Safeguarding Asylum (A/AC.96/895, paragraph 19), adopted at its forty-eighth session, to the fact that a comprehensive approach to refugee protection comprises, *inter alia*, respect for all human rights. It also underlined the obligation of States to treat asylum-seekers and refugees in accordance with applicable human rights and refugee law standards, as set out in relevant international instruments. At the same session, the Executive Committee requested a discussion on the relationship between human rights and refugee protection.

3. Against this background, this Note reviews developments in refugee protection over the past year, linking them to the related human rights standards. In the last analysis, the entire refugee experience, from forcible displacement, through the search for asylum, to the securing of a durable solution, is an important indication of the respect accorded to basic human rights principles worldwide. It provides an illustration of the continuing gap between the theory and the practice, and constitutes a measure of what is yet to be achieved.

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II. CAUSES OF REFUGEE FLOWS

4. The root causes of refugee displacement are inextricably linked to conflict, persecution and the denial of human rights. These causes are not mutually exclusive. Persons displaced by war or conflict can legitimately fear persecution. War may well be the very instrument of persecution, the method chosen by the persecutors - whether part of the State apparatus or not - to repress or eliminate entire groups of people because of their ethnicity or other affiliations. The conflicts in the former Yugoslavia and in the Great Lakes region of Africa are striking examples of situations where violence has been employed as a means to persecute specific communities, and where ethnic or religious "cleansing" has been the ultimate purpose of waging war.

5. Persecution always involves some form of discrimination. Victims of persecution are targeted because they have a particular racial or national background, or because they hold certain religious beliefs or political opinions, or because they are members of a particular social group. It was in recognition of this fact that the fundamental human right to non-discrimination, affirmed in the Charter of the United Nations and the Universal Declaration of Human Rights, was evoked in the first paragraph of the Preamble to the 1951 Convention.

6. Persecution commonly takes the form of violations of the rights to life, to liberty and to security of the person - including through torture or cruel or inhuman treatment or punishment - motivated by race, religion, nationality, membership of a particular social group or political opinion. In addition, individuals who are denied the enjoyment of other civil, political, economic, social and cultural rights may have a valid claim for refugee status where such denial is based on any of the relevant grounds, and its consequences are substantially prejudicial for the person concerned to the point where daily life becomes intolerable. Serious, particularly cumulative, violations of the rights to freedom of opinion and expression, to peaceful assembly and association, to take part in the government of the country, to respect for family life, to own property, to work and to an education, among others, could provide valid grounds for refugee claims.

III. THE RIGHT TO SEEK AND ENJOY ASYLUM

7. The right to seek and enjoy asylum from persecution is recognized in Article 14 of the Universal Declaration of Human Rights. It has been repeatedly affirmed, including through resolutions of the United Nations General Assembly, as being of critical importance to refugee protection. Asylum serves the dual purpose of providing a predictable and structured framework for the international protection of persons whose safety is at considerable risk, while ensuring, at the same time, that appropriate and lasting solutions - be they voluntary repatriation, local integration or resettlement - can be implemented. The Executive Committee has regularly reaffirmed the need fully to respect the institution of asylum, and has called upon States to use their best endeavours to grant asylum to refugees.

8. The following paragraphs raise generally aspects of the right of asylum which have remained of concern or have come into particular focus over the reporting period.

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A. Risks in flight

9. The right to seek asylum is seriously impaired where asylum-seekers have no safe means of departure. During flight, asylum-seekers are not protected by any State. Many asylum-seekers must leave their countries clandestinely, putting themselves and often their families at great personal risk. Asylum-seekers who take to the ocean in unseaworthy vessels, often having spent all their resources to pay unscrupulous traffickers, just as those forced to trek hundreds of miles overland in deplorable conditions to reach safety, do so at great peril. It is not known how many refugees have perished over the past year for these reasons, although there have been some stark indications that the number might be considerable. A new wave of "boat people" has, for example, been witnessed, originating from various countries in several different parts of the world, and with increasing frequency leading to significant loss of life. Stowaway asylum-seekers, who put their safety, and sometimes even their lives, at risk to hide themselves on ships or airplanes, only to be denied the possibility to disembark and have their claims heard, have also been a recurring protection concern.

B. The Principle of *non-refoulement*

10. The right to seek asylum requires that persons fleeing persecution or danger be admitted, at least on a temporary basis, somewhere. One essential component of the institution of asylum is the principle of *non-refoulement*. This principle, embodied in Article 33 of the 1951 Convention, prohibits the expulsion and return of refugees in any manner whatsoever to the frontiers of territories where their lives or freedom may be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion. *Refoulement* can take a number of forms, including non-admission at the frontier and interdiction at sea.

11. Although the term "*non-refoulement*" traditionally has been associated with refugees, it has found a parallel meaning and expression in broader human rights instruments. The 1984 United Nations Convention against Torture prohibits the expulsion of persons to any country where they may be subjected to torture. Other instruments also incorporate this meaning of the principle of *non-refoulement* to the extent that they prohibit torture or cruel, inhuman or degrading treatment or punishment, and this prohibition has been interpreted to include prohibition of the removal of persons to countries where they may be subjected to any such treatment. In practice, this complementary development of the *non-refoulement* principle is adding a new avenue of protection for persons either erroneously rejected for refugee status or with clear protection needs whose circumstances are nevertheless not directly addressed by the 1951 Convention. The *non-refoulement* principle as it is being interpreted and applied in the human rights instruments is, however, somewhat different in scope from the *non-refoulement* refugee protection. The areas of complementarity, as well as of difference, need further examination.

12. UNHCR welcomes the fact that many States have continued to respond generously by receiving asylum-seekers onto their territories and providing, as needed, for their interim protection. However, there have been a number of incidents during the reporting period of rejection of asylum-seekers at the frontier without the persons concerned having been provided with access to fair and efficient procedures for determining protection needs. There have

also been summary expulsions of asylum-seekers, occasionally *en masse*, without a proper assessment having been made of their protection needs.

13. There have been particularly serious violations of the principle in some regions, especially, but not exclusively, in the Great Lakes region of Africa. Large numbers of asylum-seekers and refugees have been victimized, amongst them many women and children, with some appalling consequences. The expulsions were in some cases carried out in spite of strong representations by a number of States, including States members of the Executive Committee, as well as by UNHCR. In one case, which unfolded over a three-month period, some 4,400 persons of concern to UNHCR were forcibly returned to their country of origin. In another, some 2,000 persons were expelled back to their country, over a similar time period. In a third incident, about 400 persons were forcibly returned to their country of origin. Another occurrence involved about 500 persons. These are but examples of the large-scale *refoulements* which took place over the past year.

14. In addition, a number of instances of *refoulement* of individual asylum-seekers were brought to the attention of UNHCR during the reporting period. In some cases, the *refoulement* was indirect, for example, the asylum-seeker was removed to a third country from where that person was further removed to his or her country of origin, and was the unfortunate result of the inappropriate application of the so-called "safe third country" notion. If the removal of the asylum-seeker to a third country is carried out without a proper evaluation of safety conditions in that country and without sufficient assurances that the country will admit the person to its territory and will consider the asylum claim, there must always be a clear risk that the asylum-seeker will eventually be returned to the country of origin.

C. Access to procedures

15. The right to seek asylum also requires that individual asylum-seekers be given access to fair and efficient procedures for the determination of their claims. UNHCR welcomes the fact that, during the period under review, a number of States have adopted legislation to implement the international refugee instruments, or are in the process of adopting such legislation. Some States have undertaken reviews of their legislation during the same period, in order to ensure balanced determination criteria as well as to make procedures fairer and more efficient. UNHCR was often called upon, during the year, to contribute its expertise to the process of State reflection which preceded the adoption of a refugee law. UNHCR has much appreciated the cooperation with States in this regard.

16. The Office has, though, been concerned about some recent legislative initiatives and administrative practices designed apparently to restrict access to full refugee determination procedures. UNHCR shares the concern of States about the misuse of asylum procedures, particularly as this can undermine protection possibilities. However, it is also the Office's experience that exclusive resort to measures to combat abuse, without balancing them by adequate means to identify genuine cases, can lead to *refoulement* of refugees. Developments over the reporting period which gave rise to some concern included:

(a) The denial by some countries of access to asylum procedures for asylum-seekers who lack documentation;

(b) The imposition of unreasonable time-limits for the filing of asylum requests;

(c) The return of asylum-seekers to third countries of transit or of previous stay, without proper guarantees of accessibility to safety in the third country, or that the third country will readmit the asylum-seeker and will consider his or her claim;

(d) The taking of decisions on returns in some cases by inexperienced and untrained border officials, without reference to a central authority;

(e) The inappropriate application of the notion of "manifestly unfounded claims", to channel through accelerated procedures claims that raise complex substantive issues (such as those connected to the application of exclusion clauses), or that require an in-depth consideration of objective and subjective factors (such as the evaluation of credibility or the application of the concept of internal flight alternative.)

17. Special problems arise in cases of large-scale influxes. Clearly, here, individual status determination procedures may have no immediate place, and a different approach may be called for if the aim of extending effective protection to all those who need it is to be met. Mass influxes impose particular burdens on receiving countries, who are often those least able, for economic and development reasons, to shoulder these burdens. Arrangements which recognize the unquantifiable social, political, environmental, security and other costs to host countries should be elaborated and implemented, in order to ensure a balanced sharing of responsibilities, so that the burden on any one country does not become too onerous.

18. Temporary protection regimes have been put in place in some parts of the world to ensure protection in mass influxes on a short-term basis. UNHCR agrees that temporary protection is a useful response to displacement such as, for example, the outflow from the former Yugoslavia. It is, though, not suitable for all situations, and should not become a substitute for the right of refugees to seek and enjoy asylum in accordance with internationally agreed standards. UNHCR is particularly concerned by recent efforts in some countries to develop temporary protection as a response to arrivals of individual asylum-seekers, with the effect of limiting access to refugee status determination procedures and the full range of refugee protections to which individual refugees would otherwise be entitled.

D. Standards of treatment

19. The events in the Great Lakes region of Africa over the last year perhaps more graphically than any other recent refugee experience brought to the fore the issue of standards of treatment of refugees. Large numbers of people - refugees and returnees included - were killed or deported, despite the efforts of the international humanitarian community, and in total disregard of international, regional and even national human rights and refugee protection standards. Adherence to the instruments which set these

out, and accountability for their full and non-discriminatory implementation, clearly demand much more rigorous international promotion.

20. The 1951 Convention, together with its 1967 Protocol, set out carefully crafted basic minimum standards of treatment. The most basic treatment to which refugees are entitled is not to be returned or sent back to a territory where their lives or freedom are threatened. The *non-refoulement* protection has been examined in earlier paragraphs. The Convention in its entirety covers a wider range of rights, of which some are also general human rights, and some are specific refugee rights. The Executive Committee has repeatedly affirmed the fundamental importance of the Convention and its Protocol, and has called on States which have not acceded to them to consider doing so. UNHCR welcomes the recent accession to both instruments by Turkmenistan, and the lifting of the geographic limitation by Hungary. The number of States Parties to one or both of these instruments is now 136, as at May 1998.

21. The Convention and Protocol are not the only binding sources of international standards for the treatment of refugees. The 1969 Organisation of African Unity Convention (OAU) Governing the Specific Aspects of Refugee Problems in Africa complements the 1951 Convention at the regional level, providing an extended definition of the notion of refugee and dealing with asylum and repatriation. Furthermore, as any other individuals, refugees are entitled to be treated in conformity with internationally recognized human rights standards. The 1951 Convention specifically states that its provisions shall not be deemed to impair any other rights and benefits granted by a Contracting State to refugees. At the same time, the 1951 Convention, the 1969 Organisation of African Unity Convention and international human rights instruments recall that individuals owe duties to the State and to the community. Article 2 of the 1951 Convention provides that refugees must, in particular, conform to the laws and regulations of the country in which they find themselves, as well as to measures taken for the maintenance of public order. Consonant with this provision, Article 33 (2) of the Convention specifies that protection against *refoulement* may not be claimed by refugees whom there are reasonable grounds for regarding as a danger to the security of the country in which they are, or who, having been convicted by a final judgement of a particularly serious crime, constitute a danger to the community of that country.

22. The following paragraphs examine some of the relevant standards of treatment where particular concerns have arisen during the reporting period.

Physical security

23. The right to physical security is embodied in universal and regional human rights instruments and is of the essence of refugee protection. Violations of the physical security of asylum-seekers and refugees have occurred during flight, after entry in an asylum country and, on occasion, following return to their country of origin. Military and armed attacks on refugee camps and settlements, as well as violence against individual refugees and returnees living in urban centres, posed a continuing threat to the physical security of refugees during the reporting period. Attacks resulting in considerable loss of life took place in several countries in Africa, Asia and Europe. In one incident, over 200 refugees were killed and about the same number were wounded. In another attack on a returnee area, about 150 persons were killed. In a series of several attacks on a refugee

camp in Asia, more than 50 houses were burnt down, three refugees were killed and many more were wounded. In one community setting in Europe, at least 50 returnee houses have been burnt and two returnees murdered in on-going violence and harassment since the beginning of this year. In another, returnees threatened by residents had to be evacuated temporarily. Following several security incidents in one part of Africa, UNHCR had to evacuate by air a number of refugees whose physical integrity was gravely threatened.

Non-discrimination

24. Discrimination plays a role in the genesis of refugee movements. In addition, refugees may become the victims of discriminatory treatment in the country where they seek or where they have been granted asylum. The drafters of the 1951 Convention adopted as one of the central principles of international refugee protection the principle of non-discrimination. It is embodied in Article 3 of the Convention as one of the non-derogable articles.

25. Asylum-seekers and refugees are discriminated against in a number of countries, in many ways. Discrimination has sometimes taken the form of denial of asylum to persons because of their specific nationality. Discrimination in treatment of asylum-seekers, based on ethnic or religious grounds, has also been experienced. As insidious as official discrimination is discrimination at the community level in asylum countries, based on xenophobia and prejudice among elements within the local population. Refugees and asylum-seekers have remained the target of racially motivated attacks in a number of countries. Appropriate strategies and measures to combat social discrimination and intolerance still need to be developed at the governmental level.

Freedom of movement

26. Universal and regional human rights instruments affirm the basic human right to liberty and prohibit arbitrary detention. Article 31(2) of the 1951 Convention limits restrictions on the freedom of movement of asylum-seekers unlawfully in the territory to those which are necessary. Many countries continue to detain asylum-seekers for indefinite periods following a purely administrative decision and without adequate provision for timely review of any continuation of the detention. This is a widespread problem, involving a practice which not only is inconsistent with conclusions and recommendations of the Executive Committee, but, in some cases, is aggravated by unacceptable conditions of detention. Often asylum-seekers are held together with criminals, sometimes the most hardened. UNHCR is particularly worried by the practice in some countries of keeping minor asylum-seekers in detention, and the fact that, in a number of countries, the Office is not granted adequate access to asylum-seekers in detention. Alternatives to detention should be explored which would allow States to meet by other means their legitimate concern that asylum-seekers not disappear in the course of the status determination process.

Family unity

27. The 1951 Conference of Plenipotentiaries unanimously acknowledged that the unity of the family is an essential right of the refugee, and recommended that Governments take necessary measures for the protection of the refugee's family. The principle of family unity is recognized as a fundamental human

right in the Universal Declaration of Human Rights and has been incorporated into a number of international and regional instruments, including the Convention on the Rights of the Child. Conclusions of the Executive Committee have stressed, *inter alia*, the need to ensure reunification with the least possible delay, to encourage the application of liberal criteria in identifying eligible family members, to respect family unity in situations of large-scale influx, and to make appropriate tracing efforts.

28. UNHCR has been seriously concerned over the reporting period about the fact that many countries continue to deny refugees the right to family reunion. In some countries in different parts of the world, there is no provision in legislation or administrative policy for the realisation of this right. In other countries, denial results from legislative requirements which do not adequately distinguish the special circumstances of refugees from those of aliens generally. Refugees are accordingly required to meet conditions which their circumstances make it impossible for them to fulfil. Avoidable lengthy delays in the reunification of families are inconsistent with the protection of the right. The separation of refugee families leads to grave hardships for all, especially for children, and can have permanent negative consequences for the integration of refugees in their country of asylum.

Treatment of women and children

29. UNHCR has also been concerned about the dangers to which refugee women are regularly exposed. In several parts of the world women fleeing their countries have suffered particular indignities and threats, notably sexual violence, perpetrated by bandits, combatants and sometimes even by fellow asylum-seekers or the officials who might reasonably have been expected to protect them. Instances of physical violence and sexual abuse against women, particularly in camps, have been reported in several countries. In one camp, sixteen rapes were reported during a nine-day period at the beginning of 1998. Women have also been forced into prostitution in exchange for basic necessities. Outside camp environments, women refugees have faced a range of practical difficulties, often as a result of discrimination against women in general. In some countries, for example, it is difficult for refugee women to access judicial or legal procedures, to obtain their own documentation certifying their status as refugees, or, as appropriate, to become citizens of their asylum country in their own right.

30. UNHCR continues to explore ways to address these problems, including by better operationalization of the Office's guidelines on the protection of refugee women and on sexual violence, as well as the use of resettlement as a protection tool for women at risk. Lessons learned from recent projects suggest that a small-scale community-based approach may be one effective way to foster rights protection. UNHCR's Women's Initiatives in both Bosnia and Herzegovina and Rwanda, encouraging income-generation and economic empowerment of women, are instructive examples of community-based approaches to promoting rights.

31. Protecting refugee children, especially in camps, continues as well to pose particular difficulties. Forced recruitment of young persons, often minors, into regular or irregular armed forces is a particular problem in some countries where refugee camps or settlements are specifically targeted. Unaccompanied minors are very vulnerable in this regard, in the absence of

family support. These and other problems, including child prostitution and underage pregnancy, have been compounded over the reporting period by the denial to UNHCR of access to certain refugee populations.

32. Legal standards, important as they are, must be buttressed by changing attitudes and effective opportunities for advancing rights. The project known as Action on the Rights of Children, or ARC, a Government-sponsored joint UNHCR/NGO initiative holds out promise in this regard. It is built around a series of training modules on the rights of the child, including a module on prevention of recruitment and demobilization, as well as a scheme for their dissemination and delivery.

The Problem of Statelessness

33. The right to a nationality is articulated in various universal and regional human rights instruments. It is also the basis for two international conventions on statelessness, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Although the causes of statelessness often are different from those which give rise to refugee displacements, stateless persons face many of the same problems and disabilities as do refugees. UNHCR has been designated under Article 11 of the 1961 Convention on the Reduction of Statelessness to assist persons wishing to claim the benefit of that instrument. Furthermore, the Executive Committee has recognized the connection between statelessness, displacement and refugees, and has encouraged UNHCR, in addition to its responsibilities for the reduction of statelessness, to work to address statelessness problems more generally. In this context UNHCR has, for example, been called upon to promote accessions to the two statelessness conventions.

34. Over the reporting period UNHCR has had to respond to a growing number of statelessness problems, both of individuals and groups. Particular attention has been given to the situation of children of refugees born in asylum countries, who confront the real prospect of statelessness if appropriate registration practices are not followed. Increasingly, too, its expertise has been drawn on by States who are in the process of putting in place a regulatory framework to address statelessness problems and prevent their recurrence. The work of the Office on behalf of stateless people has also included assistance to forcibly displaced groups to return to their original homeland, to obtain citizenship and to reclaim former property.

IV. THE RIGHT TO RETURN

35. Human rights standards are of direct significance in the search for and implementation of lasting solutions for refugees and other forcibly displaced persons. In the return of refugees to their countries of origin, these standards help to define the conditions for safe and dignified voluntary repatriation and for reintegration. They are also the framework for rebuilding the human rights protection capacities of these countries, which is so fundamental to achieving reconciliation and ensuring sustainable return.

36. It is generally accepted that voluntary repatriation, where possible, is the most desirable lasting solution to any given refugee situation. The right to return to one's own country, laid down in Article 13 (2) of the

Universal Declaration, is evidently a key right for those who wish to repatriate. In promoting or facilitating as well as monitoring the repatriation of refugees, the role of UNHCR is to ensure respect for the voluntary character of repatriation, to enable refugees to return to their homes in safety and dignity, and to work to ensure that the return has every chance of being sustainable. The functions of the Office include monitoring returns and the reintegration process in their countries of origin. Monitoring presupposes that UNHCR will be provided with access to returnee populations, which unfortunately has not always been the case. In some countries the authorities have not allowed UNHCR to be present; in others, presence is curtailed by unstable security conditions, where humanitarian workers, including UNHCR staff, may be specifically targeted for violent attacks. The Executive Committee has expressed its concern about threats to UNHCR staff and other humanitarian workers, and, during its forty-eighth session in 1997, it condemned all such acts and called upon States to take all possible measures to combat them.

37. In the period since the last session of the Executive Committee, there has been considerable progress in repatriation programmes, with the active cooperation and support of concerned Governments. The period has seen the successful completion of a four-year repatriation operation for some 60,000 Tajik refugees who fled into northern Afghanistan in 1992 to escape civil war. Likewise, the repatriation and reintegration of Guatemalan refugees from Mexico is entering its final phase. UNHCR has also initiated the repatriations of Niger refugees from Algeria and of Malian refugees from Niger. Currently there are ongoing operations to assist returns from Thailand to Cambodia, from Bangladesh to Myanmar and from several West African countries to Liberia.

38. Corresponding to the refugee's right to return is the obligation of the State to accept back its citizens. Some countries continue to restrict the right of their citizens to return. This is achieved either outright or through a myriad of laws, regulations and administrative practices which have the effect of creating serious obstacles to return. Actions resorted to have included restricting access to land or dwelling places for certain groups; the imposition of heavy taxes or customs fees on those wishing to return with belongings; the discriminatory application of amnesty laws after a war; and refusal to recognize or issue identification documents, or the imposition of extremely cumbersome procedures as the basis for obtaining them.

39. The right to a nationality is also particularly relevant for those who are returning, usually after the resolution of a war, to an area which formerly was part of a different state. The nationality legislation of emerging States has on occasion been drafted in such a way as to exclude from eligibility for nationality a number of former citizens, most commonly because of criteria based on ethnicity.

40. If returnees are successfully to reintegrate into the society of the country of origin, they must be able to work, to access education for their children, to benefit from welfare programmes and services, and to participate in the political and the cultural life of the community. Even where there are no overtly discriminatory practices limiting these important aspects of reintegration, in societies which are rebuilding themselves after violent conflict the economic, political and social context may work against the full exercise by returnees of these rights. The Executive Committee has recognized

the interest of UNHCR in the durability and consequences of return, and in effect laid the basis for some role for the Office in this regard. UNHCR is involved in comprehensive programmes of activities in several countries of return which serve to strengthen possibilities for the enjoyment of rights after return.

41. In a number of recent refugee situations, returnee children have been particularly impacted by reintegration problems. Children who need particular help in order to exercise their basic rights include ex-child soldiers, adolescents, girl mothers and child-headed households. Many of these children and adolescents have never known peace and stability; instead their lives have been filled with insecurity, violence and destruction. They face the possibility of re-recruitment into armed forces, being forced into harmful child labour or prostitution and other indignities. Ensuring that these children have access to adequate and appropriate educational opportunities and that community support mechanisms are put in place to address these risks is necessary. UNHCR and UNICEF are hoping soon to receive Government donor support to launch the Liberia Children's Initiative to implement a programme of such measures for returnee and internally displaced children in Liberia, who form an astounding 55 per cent of the displaced population.

42. Support to local efforts to rebuild confidence and respect for the process of law may be crucial to ensure the sustainability of the return. Examples over the past year include UNHCR's "Open Cities" initiative in Bosnia and Herzegovina, which operates at the municipality level to reward local communities which put in place fair laws and practices which do not discriminate against returnees. UNHCR has also assisted training of the judiciary and drafting of laws in Central and Eastern Europe which, for example, has helped returning deported peoples to reclaim property and citizenship.

V. LOOKING AHEAD - UNHCR AND HUMAN RIGHTS

43. UNHCR is charged with the obligatory, not discretionary, functions of providing international protection to, and seeking permanent solutions for the problem of refugees. Inherent in both is the fundamental responsibility of ensuring the safety of refugees. UNHCR actions are firmly based in and guided by universal refugee protection principles and international human rights standards, which reinforce the legitimacy of these actions and which are essential to the attainment of refugee safety.

44. Throughout the first four decades of the Office's existence, the structure of the international system and the nature of the situations generating refugee flows were such as to, if not facilitate, at least enable, UNHCR to carry out its activities largely in accordance with these principles and standards. Recent changes in the dynamics of the international system have, however, considerably increased the difficulties and complexities of the protection challenges facing the Office. One particular area of growing concern for UNHCR is the fact that it is more and more being confronted by circumstances in which basic principles and standards are either frequently violated, or flagrantly disregarded in their entirety.

45. Clearly there is still a gap between the theory of basic human rights and the ability of many people, including refugees, to enjoy these rights.

The challenge is to find ways to close, or at least narrow, this gap. This is not a challenge for UNHCR alone. A concerted effort is called for from all concerned parties - States, the United Nations and other international and regional organizations, as well as non-governmental organizations, and even community groups. The success of any such effort will always be directly proportional to the political will of States not only to put in place systems for the protection of basic rights, but to make them effective in practice, and to complement them by prevention activities which target discrimination and xenophobia, by education to combat prejudices and by public information campaigns to promote tolerance.

46. UNHCR has an integral role to play in this common effort, within the terms of its mandate, where violations of basic rights lead to displacement, jeopardize persons of concern to the Office or impede sustainable return. Proceeding from this understanding, UNHCR has over the past year intensified its cooperative involvement with system-wide human rights promotion activities and protection mechanisms, where this was judged to be of tangible benefit to refugee protection, or to addressing the root causes of flows. This cooperation has included support for national human rights institutions to strengthen local capacity to protect human rights; assistance in training the judiciary and government officials in refugee and related human rights concepts; and working along with non-governmental organizations to spread awareness of human rights instruments, principles and practices directly impacting on refugee situations. UNHCR has also intensified its cooperation with the human rights treaty implementation machinery, while at the operational level, a positive interaction is developing between the human rights field missions and UNHCR operations on the ground. At Headquarters, the cooperation between UNHCR and the Office of the High Commissioner for Human Rights has been very positive and is expanding.

47. In all these activities, UNHCR has been guided by its clear awareness of the complementarity but difference between the refugee specific mandate of UNHCR and the broader human rights mandates of other concerned organs and institutions, including the Office of the High Commissioner for Human Rights. The need to maintain the mutually supportive but separate character of respective mandates is particularly clear in the area of monitoring. While human rights monitoring missions must investigate and encourage prosecution of human rights violations, action in support of refugees and returnees is essentially humanitarian, involving confidence-building and creation of conditions conducive to peace and reconciliation. This being said, because the activities of human rights field missions are very relevant to UNHCR's work, UNHCR has been repeatedly supporting the need for a more operational human rights machinery as a necessary complement to its own protection efforts.

48. UNHCR will continue its efforts to achieve a better integration of the human rights work of the United Nations into refugee protection. By virtue of its activities on behalf of refugees and displaced persons UNHCR also promotes the purposes and principles of the United Nations Charter, which include encouraging respect for human rights and fundamental freedoms. This is a key part of its mission.